

1873-012
Lee Co.

Chancery Causes: William Marion & wife & vs. Francis Marion &

Carroll, Rutherford, Carroll

1 Plat

CA - Estate Dispute
T - Property

- Deed

To the Honorable Henry J. Morgan Judge of the
County Court of Lee County Virginia:

The bill of Complaint of William Marion,
and ~~Jeannina Marion~~ ^{his wife} Mary Carroll, ~~Barbary Marion~~, and Alexander Ruth-
-erford, and Matilda Rutherford, ^{and, Mary Marion Sr.} his wife, humbly
Complaining respectfully represents that About the
Year 1870 One William Marion Sr. departed this
life intestate in Lee County Virginia leaving a
Tract of about acres of land lying and being
on the north side of Powell's Mountain near Hunter's
Gap in Lee County adjoining the lands of A. R. Singe-
-ner Prestons' Koller and others which tract was
Conveyed to him by Benjamin D. Martin which Deed
of Conveyance is herewith filed marked (A) and
made a part of this bill. Your orators will
here state that the said William Marion Sr. decd
had the following Children to wit Your Orators
William Marion Mary Carroll Barbary Marion &
Matilda Rutherford who are still living and
Jackson Marion and Pleasant Marion who died
before Wm. Marion Sr. but they left at their
death the following Children to wit Francis
Minerva and Mary Marion who are infant Children
of the said Jackson Marion decd and Jefferson
B. Marion who is an infant Son of Pleasant
Marion decd. The said Wm. Marion Sr. left at
his death the said Mary Marion Sr. as his widow
and who is entitled to Dower in his estate,
and the said William Marion, Mary Carroll, Barbary
Marion and Matilda Rutherford are each entitled
to the one sixth part of their fathers estate
as his Children and heirs and the infant Chil-
dren of Jackson Marion decd to wit: Francis,
Minerva, and Mary Marion are jointly

entitled to one sixth part of Said estate and
the infant Son of Pleasant Marion decd. to wit
Jefferson B. Marion is also entitled to one sixth
part of Said estate And Your Orators alleged
that ~~the~~ Said real estate of Wm. Marion Sr.
deceased is liable to a partition which is
the object of this Bill and the widow Mary
Marion^s is entitled to Dower out of the Same
which she Claims and asks to be assigned to her.

Your Orators being without an adequate
remedy at law and best relievable in a Court
of ^{equity} ~~law~~ their prayer therefore is that the Said
infants to wit Francis Marion, Minerva Marion
and Mary Marion^s, and Jefferson B. Marion
be made the parties defendant to this Bill and
that they be summoned to answer the Same and that
a Guardian ad litem be appointed to appear
Answer and defend for them in this Cause and
that upon a hearing of this Cause a partition
of Said land, ^{and assignment of Dower} be decreed among the parties
entitled to the Same and that Commissioners
be appointed for that purpose And such
other further and general relief be extended to
Your Orators as may be Consistent with equity
And justice and best Suit to their Case

May the Commonwealths' writ of Spw. issue &c.

David Miller
for Compls.

^{VM}
Wm. Marion & others

vs. Bill in Chy.

Francis Marion & others

1872 June Bill Filed, John D. Sharp
Capt. C. A. L. who filed his. ans.
& set for hearing By selfs.

" June Term Decree for Partition
& continued,

" July, Aug, Sept, Oct, Nov & Dec
- Contd.

1873. Jan. Decree Final.

C.	10.85	
A.	15.00	
S.	2.00	
C. A. L.	5.00	Sharp
Gen. Sward	6.00	
" Sarguer	2.00	
" Dismantle	2.00	
	\$ 42.85	

Wm. Marion, et al, Pltffs, /

vs

Francis Marion, et al, Defts

} Answer of
Guardian ad Litem

The Defts, Francis Marion,
Minerva Marion & Mary Marion Jr, Infant
Children & Heirs at Law of Jackson Marion Decd,
and Jefferson B. Marion, Infant child and Heir
at Law of Pleasant Marion Decd, come into
Court, and by their Guardian ad Litem,
John D. Sharp, and for answer to the Bill
of Complaint filed by said Wm. Marion, et al,
against them, say, that they are minors, and
have no knowledge of the matters and
things, as stated in Complainants bill, they
ask therefore that Complainants be required
to fully prove the said allegations. They neither
admit, or deny the same. ^{but suppose there can be no objection to the partition} Being of tender age
~~they~~ objects of the peculiar care of a Court of
Chancery, they therefore ask that this Court
Protect them in all their rights & interests
in the premises.

Having fully answered Compltts bill,
so far as they are advised it is necessary for
them to answer the same, they pray to
be hence dismissed with their costs ex-
pended by them in this Cause.

And they will ever pray &c.

Fee of Guardian ad Litem

\$5.00

Francis Marion
Minerva Marion
Mary Marion Jr.
Jefferson B. Marion

By John D. Sharp, their
Guardian ad Litem.

Francis Marion et al,
att^y } answer of
Guardian ad Litem

Wm Marion et al

Filed at June Rules 1872.

Mrs. Marion & others plaintiffs }
against } Decree final
Francis Marion & others Defendants }

This Cause Came on this day again to be heard upon the papers formerly read in the Cause and the report of the Commissioners who made a partition of this land in the Bill mentioned pursuant to a former decree of this Court and was argued by Counsel and it appearing to the Court that Said Commissioners report had been filed in this Cause for more than ten days before this term of the Court and no exceptions having been filed thereto on consideration of all which It is hereby adjudged ordered and decreed that the Said report be and is hereby Confirmed and that the widow Mary Marion Sr. hold the lot assigned to her during her natural life as and for her Dower in Said land and that the other parties hold the lots thereby allotted and assigned to them together with ^{the} appurtenances belonging to each according to Said Commissioners report and the share of Mary Carol is subject entirely to the lifetime Dower of Mary Marion Sr. the widow and the share of Matilda Rutherford is partly subject to the lifetime Dower of Mary Marion Sr. the widow and the rest of the shares and lots are entirely free from Said Dower. And the Clerk of this Court is directed to record Said Commissioners Report and the plat accompanying the same and this decree in the Deed Book in his office. And the Court doth further order adjudge and decree that the parties to this suit except the widow Mary Marion Sr. do each pay their part of the taxable Costs of this suit in proportion to their interests in the land partitioned and when the Guardians of the Minor parties shall

pay their part of the Costs then a receipt therefor
will be a proper voucher for them in a Settlement
with a Commissioner of accounts. And nothing fur-
ther appearing necessary in the Cause it is hereby
ordered to be Stricken from the Docket,

Amos Marion Stothers

vs. Doersel final

Stothers Marion Stothers

Entered order Book page
194.

James W. Orr clerk.

Enter this Decree

J. S. Morgan

Jan 21 - 1873

Mrs. Marion & others Plffs. }
 against } Decree for partition
 Francis Marion & others Defts.

On the motion of Complainants by their attorney
 John D. Sharp was appointed Guardian ad litem
 in this Cause for the infant defendants Francis
 Marion, Minerva Marion, Mary Marion Jr., and Jefferson
 B. Marion who asked leave to file his answer and
 the same is accordingly filed and thereupon this
 Cause came on this day to be heard upon the bill
 of Complaint and exhibit therewith and the answer
 of the infant Defendants Francis Marion, Minerva
 Marion, Mary Marion Jr. and Jefferson B. Marion
 by John D. Sharp their Guardian ad litem and
 was argued by Counsel and it appearing to the
 Court that the plaintiff Mary Marion Sr. is entitled
 to dower in the lands belonging to the estate of ^{William} ~~James~~
 Marion Sr. Deceased and the other Plffs. and Defend-
 ants are entitled as heirs at law of William Marion
 deceased to the land in the bill mentioned and belong-
 ing to the estate of Mrs. Marion deceased, It is therefore
 adjudged ordered and decreed that John W. Sword
 Abraham R. Surgenor and Russell B. Devault be and
 are hereby appointed Commissioners whose duty it shall
 be to assign to the widow Mary Marion Sr. dower
 in the real estate of Mrs. Marion Sr. decd. and make
 partition of said real estate among the parties to
 this suit quantity and quality considered according
 to their respective rights and interests in the same

That is to say they will lay off and assign to plaintiffs Wm. Marion, Mary Carroll, Barbary Marion, and Matilda Kutherford each the one sixth part of Said real estate and they will lay off and assign to Defendants Francis Marion, Minerva Marion and Mary Marion jr. jointly the one sixth part of Said real estate and they will lay off and assign to Defendant Jefferson B. Marion the one sixth part of Said real estate and they will make report and return a plat with the same to a future term of this Court and the Cause is Continued

Wm. Marion & others

vs.
Decree

of Francis Marion & others

Entered on the Book

page 66.

James W. Dr. Clerk.

Entered on the Book

of H. L. Dr. Clerk

June 22 1872

Virginia

At a court of quarter sessions continued and held for Lee County
at the Court house thereof, on Saturday the 22nd day of June 1877.

William Marion & others

Plaintiffs

against

Francis Marion & others

Defendants

In Chancery

It is therefore adjudged, ordered and
decreed that John W Snood, Abraham R Surgeon, and Russell
B Danault be and are hereby appointed Commissioners whose
duty it shall be to assign to the widow Mary Marion Dr. some
or in the real estate of William Marion Dr deceased, and make
partition of said real estate among the parties to this suit, quantity
and quality considered, according to their respective rights and
interests in the same, That is to say they will lay off and as-
sign to plaintiffs William Marion, Mary Carroll, Barbara Marion,
and Matilda Rutherford, each the one sixth part of said real
estate, and they will lay off and assign to defendant Jefferson
B Marion the one sixth part of said real estate, and they will
make report, and return a plat with the same to a future
term of this Court, and the cause is Continued

A copy

Teste - James W Orr. Clerk.

William Marion & others

Copy of Decree

Francis Marion & others

Presented by delivering
a true copy of the
within notice to each
one of the within named
July 25th 1872

W. Aufbauer
do for C. F. Hamblen & Co

We the undersigned commissioners appointed by an order of the County Court of Lee County, to lay off and assign to Mary Marion sr. dower in the real estate of William Marion sr. deceased, and to make partition of said real estate among the heirs of said William Marion sr.

Report that we have performed that duty, and that said real estate consists of a tract of land lying in Lee County on the North side of Powels Mountain near Hunters Gap. Beginning on a stake in the edge of the Blackwater road on Smiths line thence S 5 E 30 p to a stake by said road, S 43 E 82 p to a stake on the top of Powels Mountain, thence with the top of said Mountain N 69 E 160 p to a stake, N 30 W 102 p to a stake in Smiths line, thence with said line S 70 W 164 p to the Beginning. containing 109 acres. and we have assigned to the said widow Mary Marion Sr. her dower on the west end of said land Beginning on a stake on the Smith line in the edge of the Blackwater road. S 5 E 30 p to a stake by said road. S 43 E 82 p to a stake on the top of Powels Mountain, thence with the top of said Mountain N 69 E 42 p to a stake, N 30 W 106 p to a stake in Smiths line. S 70 W 46 p to the Beginning containing 30 acres, according to the annexed plat marked Dower. Mary Carrolls share we have laid off and assigned to her wholly in the Dower. Beginning at a stake on Smiths line in the edge of the Blackwater road thence S 5 E 30 p to a stake by said road S 43 E 82 p to a stake on top of Powels Mountain thence with the top of said Mountain N 69 E 27 p to a stake N 30 W 106 p to a stake in Smiths line S 70 W 31 p to the Beginning containing, according to the annexed plat marked A, 21 Acres

Matilda Butcherfords share we have laid off and assigned to her partly in the dower Beginning on a stake in Smiths line thence S 30 E 106 p to a stake on top of Powels Mountain thence with the top of said Mountain N 69 E 29 p to a stake N 30 W 105 p to a stake in Smiths line thence with said line S 70 W 29 p to the Beginning. containing 20 Acres according to the annexed plat marked B. and she is also to have the house in which she now lives with liberty to move the same, or if she chooses to live in the house where it now stands she is to have one quarter of an Acre around it (the house being in the center) so long as she chooses to occupy the same, also access to the spring

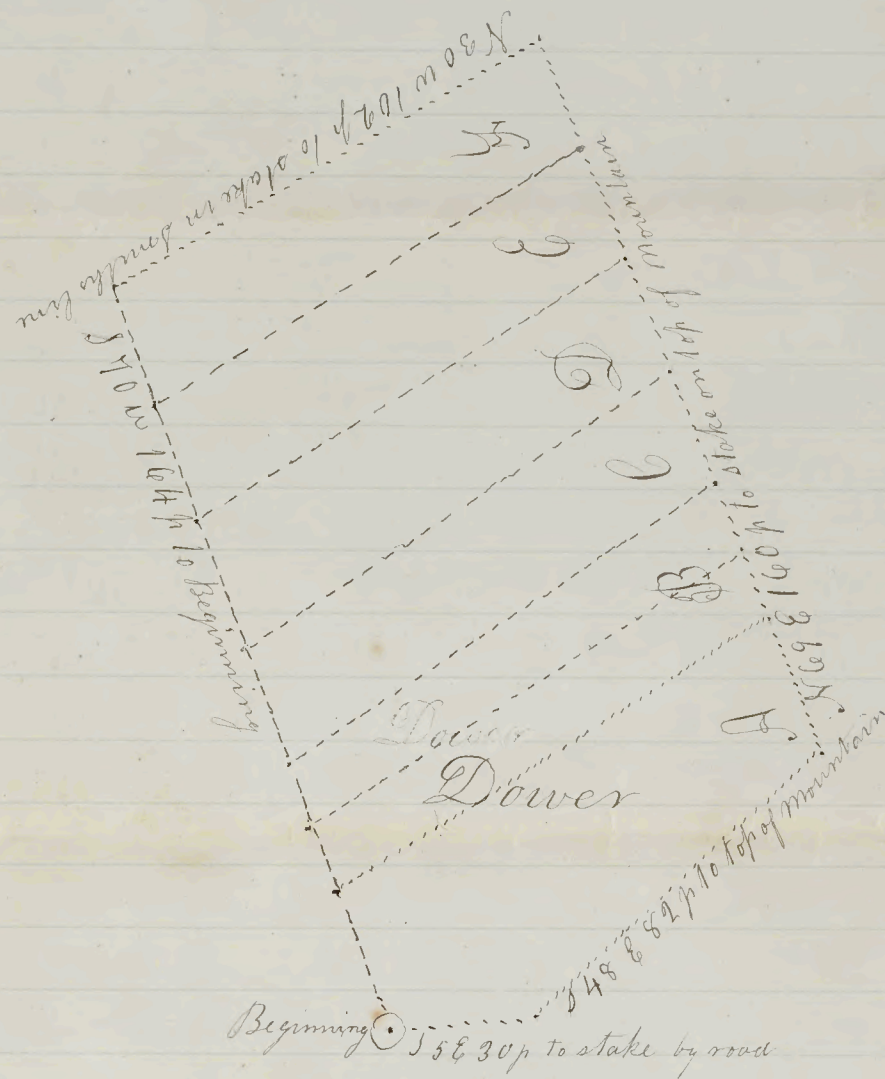
Barbary Marion's share we have laid off and assigned to her according to the annexed plat marked C, Beginning at a stake in Smiths line thence S 30 E 105 p to the top of Powels Mountain thence with the top of said Mountain N 69 E 26 p to a stake N 30 W 104 p to a stake in Smiths line thence with said line S 70 W 26 p to the beginning, containing 17 Acres.

Jefferson B. Marion's share we have laid off and assigned to him according to the annexed plat ^{marked D}, Beginning on a stake in Smiths line thence S 78 26 p to a stake in said line S 30 E 104 p to a stake on top of Powels Mountain thence with the top of said Mountain N 69 E 26 p to a stake N 30 W 103 p to the beginning containing 17 Acres.

We have laid off and assigned to the heirs of Jackson Marion, Francis Marion Mary Marion Jr. and Marion their share, according to the annexed plat marked E, Beginning on a stake in Smiths line thence S 30 E 103 p to a stake on top of Powels Mountain thence with the top of said Mountain N 69 E 26 p to a stake, N 30 W ^{102 p} to a stake in Smiths line thence with said line S 70 W 26 p to the beginning containing 17 Acres + William Marion's share we have laid off and assigned to him according to the annexed plat marked F, Beginning on a stake in Smiths line thence S 30 E 102 p to the top of Powels Mountain thence with the top of said mountain N 69 E 26 p to a stake, N 30 W 102 p to a stake in Smiths line thence with said line S 70 W 26 p to the beginning containing 17 Acres.

And all ^{the} parties are to have right of way one rod wide along the Smith line to road water &c

John W. Sword.
Abraham R. Surgeur.
Russell B. Devault. } Commrs.



John W. Sword	\$6.00
A. R. Surgeur	2.00
R. B. Devault	2.00
	\$10.00

Virginia

At a county court continued and held for Lee County at the court house thereof on Tuesday January 21st 1873

vs. The Marion et al

Francis Marion et al

Plffs }
vs. } In Chancery
Defts }

This cause came on this day again to be heard upon the papers formerly read in the cause and the

report of the commissioners who made a partition of
the lands in the bill mentioned pursuant to a decree
of this Court and were argued by counsel
and it appearing to the Court that said commissioners
report has been filed in this cause for more than
ten days before this term of the Court and no ex-
ceptions being filed thereto on consideration of all which
it is hereby adjudged, ordered and decreed that the said
Court report be and is hereby confirmed. x x x

Attest

Lester Wm. A. Orr D.C.

The Francis
Francis Francis
Francis Francis

Francis Francis

Francis Francis

Francis Francis

Francis Francis

Francis Francis

Francis Francis

Deed made the 10th day of February in the year of our Lord one thousand eight hundred and fifty nine between Benjamin D. Martin and Elizabeth C. his wife of the County of Lee and State of Virginia of the 1st part and William Marion of the County of Lee and State of Virginia of the second part. It is covenanted that in consideration of the sum of four hundred and fifty dollars the said party of the first part do grant unto the said party of the second part, a certain tract or parcel of land, lying and being in the County of Lee on the north side of Croatts Mountain, whereon the said Marion now lives, it being a part of the land sold by Sarah which is Benjamin Dickinson's wife of 72 acres sold by Henry Laughery to S. Benjamin Dickinson and bounded as follows: Beginning at a Stake in the line of the Smith Survey in the edge of the Black Water Road; thence southerly up S. Mountain and with S. Road to a Stake below the Spring; thence running S. Road across said Mountain to a large Poplar Hickory below S. Spring a line tree; thence still up S. Mountain and with a line of the said 72 acre Survey to a Stake on the top of said Mountain; thence easterly with the same to a Stake another corner of S. 72 acre Survey; thence easterly down S. Mountain with a rather line of S. 72 acre Survey to the said Check Post; and with a line thereof to a Stake in the S. Smith line; thence thence with the said Smith line to the Beginning. And the said Benjamin D. Martin and Elizabeth C. his wife do covenant that they will lawfully convey the land hereby conveyed. Witness the following signatures and seals—
Benjamin D. Martin Seal

For County Court Clerk's Office the 22nd day of February 1859.
This Surrender of bargain and sale for land, between Benjamin D. Martin, and Elizabeth C. his wife of the one part, and William Marion of the other part, was acknowledged before me by

The said Benjamin L. Martin, are admitted to record
as to him. W. J. Morgan. Cts.

Acopy

from George W. D. & C.

William Marion
True Copy of Deed
Benjamin L. Martin

(Exhibit A.)

True Copy (C. & D.)

The Commonwealth of Virginia :

TO THE SHERIFF OF LEE

COUNTY—GREETING:

WE command you to summon *Francis Marion, Minerva Marion, Mary Marion Jr, and Jefferson B Marion.*

to appear at the clerk's office of the county court of Lee, at the court house, on the first Monday in *July* next, being Rule day, to answer a bill in chancery exhibited in our said court against *them* by *Wm Marion, & Jennima Marion his wife, Mary Cassatt, Barbara Marion, Alexander Rutherford & Matilda Rutherford his wife, and Mary Marion Sr.*

and unless *they* shall answer the said bill within one month thereafter, the same will be taken for confessed, and the said court will decree accordingly. And have then there this writ. Witness, JAS. W. ORR, clerk of our said court at the court house, the *5th* day of *May* 1872, in the *56th* year of the Commonwealth.

James W Orr, Clerk.

COPIED - 1872

William Marion et al
vs. John A. Chancy

Francis Marion et al
July Rules 1872

Exhibit by answer
an answer of record
Copy to Francis Marion
June 1872